

(2) If no inspection was conducted, an explanation of the reason for not inspecting;

(3) A statement as to the person's right to informal review of the actions or inactions of the Office.

(4) The permittee shall receive copies of all such reports which have not already been given to the permittee, except that the name of the complainant shall be removed.

(d) *Review of action of local offices.* A person who does not agree with the action taken by the Office on their report may request the Regional Director to review the complaint and actions taken. The Regional Director shall advise the person in writing, within 30 days of the results of the review. Informal review under this subsection shall not affect any rights to formal review or a citizen's suit.

§ 721.14 Failure to give notice and lack of reasonable belief.

No notice of violation or cessation order may be vacated by reason of failure to give notice required by the Act or these regulations prior to the inspection; or by reason of a subsequent determination that prior to the inspection the Office did not have information sufficient to create a reasonable belief that a violation had occurred.

PART 722—ENFORCEMENT PROCEDURES

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AUTHORITY: Secs. 201, 501, and 502, Pub. L. 95-87, 91 Stat. 445 (30 U.S.C. 1201).

SOURCE: 42 FR 62701, Dec. 13, 1977, unless otherwise noted.

§ 722.1 Scope.

The regulations of this part set forth general procedures governing issuance of orders of cessation, notices of violation, and orders to show cause under section 521 of the Act.

§ 722.11 Imminent dangers and harms.

(a) If an authorized representative of the Secretary finds conditions or practices, or violations of any requirement of the Act, or any requirement of this chapter applicable during the interim regulatory program, which create an imminent danger to the health or safety of the public, the authorized representative shall immediately order a cessation of surface coal mining and reclamation operations or that portion of the operation relevant to the condition, practice, or violation.

(b) If an authorized representative of the Secretary finds conditions or practices, or violations of any requirement of the Act, or any requirement of this chapter applicable during the interim regulatory program, which are causing, or can reasonably be expected to cause, significant, imminent environmental harm to land, air, or water resources, the authorized representative shall immediately order a cessation of surface coal mining and reclamation operations or that portion of the operation relevant to the condition, practice, or violation.

(c) Surface coal mining and reclamation operations conducted by any person without a valid surface coal mining permit required by this subchapter constitute a condition or practice which causes or can reasonably be expected to cause significant, imminent environmental harm to land, air or water resources, unless such operations are an integral, uninterrupted extension of previously permitted operations, and the person conducting such operations has filed a timely and complete application for a permit to conduct such operations.

(d) An authorized representative of the Secretary shall impose affirmative obligations on an operator which the authorized representative deems necessary to abate the condition, practice, or violation if—

(1) A cessation order is issued under paragraph (a) or (b) of this section; and

(2) The cessation of mining or reclamation activities will not completely abate the imminent danger or harm or eliminate the practices or conditions that contributed to the imminent danger or harm.

(e) When imposing affirmative obligations under this section, the authorized representative of the Secretary shall require abatement of the imminent danger or harm in the most expeditious manner physically possible. The affirmative obligation shall include a time by which abatement shall be accomplished and may include, among other things, the use of existing or additional personnel and equipment.

(f) Reclamation operations not directly the subject of the order or affirmative obligation shall continue during any cessation order.

(g) An authorized representative of the Secretary shall terminate a cessation order issued under paragraph (a) or (b) of this section by written notice when the authorized representative determines that the conditions or practices or violations that contributed to the imminent danger to life or the environment have been eliminated.

[42 FR 62701, Dec. 13, 1977, as amended at 45 FR 67501, Oct. 10, 1980; 47 FR 18558, Apr. 29, 1982]

§ 722.12 Non-imminent dangers or harms.

(a) If an authorized representative of the Secretary finds conditions or practices, or violations of any requirement of the Act, or of any requirement of this chapter applicable during the interim regulatory program, but such violations do not create an imminent danger to the health or safety of the public, or are not causing and cannot reasonably be expected to cause significant, imminent environmental harm to land, air, or water resources, the authorized representative shall issue a notice of violation fixing a reasonable time for abatement.

(b) An authorized representative of the Secretary may extend the time to abate a violation by written notice if the failure to abate within the time set was not caused by the permittee's lack of diligence.

(c) An authorized representative of the Secretary may establish interim steps in an abatement period. If the permittee fails to meet any interim step within the time set, the authorized representative may extend the time set for meeting the interim step, in accordance with this section, or may

issue a cessation order pursuant to § 722.13 of this part.

(d) The total time for abatement as originally fixed and subsequently extended shall not exceed 90 days except upon a showing by the permittee that it is not feasible to abate the violation within 90 calendar days due to one or more of the circumstances in § 722.12(e). An extended abatement date pursuant to this section shall not be granted when the permittee's failure to abate within 90 days has been caused by a lack of diligence or intentional delay by the permittee in completing the remedial action required.

(e) Circumstances which may qualify a surface coal mining operation for an abatement period of more than 90 days are:

(1) Where the permittee of an ongoing permitted operation has timely applied for and diligently pursued a permit renewal or other necessary approval of designs or plans but such permit or approval has not been or will not be issued within 90 days after a valid permit expires or is required, for reasons not within the control of the permittee;

(2) Where there is a valid judicial order precluding abatement within 90 days as to which the permittee has diligently pursued all rights of appeal and as to which he or she has no other effective legal remedy;

(3) Where the permittee cannot abate within 90 days due to a labor strike;

(4) Where climatic conditions preclude abatement within 90 days, or where, due to climatic conditions, abatement within 90 days clearly:

(i) Would cause more environmental harm than it would prevent; or

(ii) Requires action that would violate safety standards established by statute or regulation under the Mine Safety and Health Act.

(f) Whenever an abatement time in excess of 90 days is permitted, interim abatement measures shall be imposed to the extent necessary to minimize harm to the public or the environment.

(g) If any of the conditions in paragraphs (e) (1) through (4) exist, the permittee may request the authorized representative to grant an abatement period exceeding 90 days. The authorized representative shall not grant such an